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AZ CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

DEC 21 2009

DOCKETED BY

BAIRD, WILLIAMS & GREER, L.L.P.  
6225 NORTH 24<sup>TH</sup> STREET, SUITE 125  
PHOENIX, ARIZONA 85016  
TELEPHONE (602) 256-9400  
FAX (602) 271-9308

Michael C. Blair (018994)

Attorneys for complainant

BEFORE THE ARIZONA CORPORATION COMMISSION

In the Matter of the Complaint of Kenneth  
Luttrell,

Complainant,

vs.

Lord Arizona Water Systems, Inc.,

Respondent.

Docket No. W-02479A-08-0034

Request for Status Conference

This case has been on hold since January 2009. The complainant, Ken Luttrell, previously filed for chapter 13 bankruptcy protection. However, on November 9, 2009, the bankruptcy case was dismissed. A copy of the order dismissal is attached hereto as exhibit A.

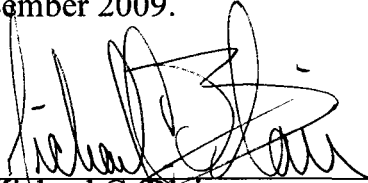
Because of the dismissal of the bankruptcy case, Mr. Luttrell has asked the Apache County Superior Court to schedule a pretrial conference to set a new trial date. A copy of that request is attached hereto as exhibit B.

Mr. Luttrell is still trying to get water hooked up to his property. Although a main line extension agreement was recently signed, it is believed there are still some procedural hoops that must be jumped through before water can be flowing to the property. Accordingly, Mr. Luttrell requests this court to set a telephonic status conference to discuss what else needs to be done to move this case along.

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1 Respectfully submitted this 18<sup>th</sup> day of December 2009.

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4 

5 Michael C. Blair  
6 Baird, Williams & Greer, L.L.P.  
7 6225 North 24<sup>th</sup> Street, Suite 125  
8 Phoenix, Arizona 85016  
9 Attorneys for complainant

10 Original filed this 18<sup>th</sup> day of  
11 December 2009, with:

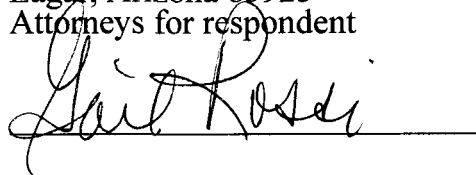
12 Docket Control  
13 Arizona Corporation Commission  
14 1200 West Washington  
15 Phoenix, Arizona 85007

16 A copy of the foregoing mailed  
17 this 18<sup>th</sup> day of December 2009, to:

18 Honorable Belinda A. Martin  
19 Administrative Law Judge  
20 Arizona Corporation Commission  
21 Hearing Division  
22 1200 W. Washington  
23 Phoenix, Arizona 85007

24 With a copy mailed this same  
25 date to:

26 Douglas E. Brown, Esq.  
*Brown & Brown Law Offices, P.C.*  
P.O. Box 489  
Eagar, Arizona 85925  
Attorneys for respondent



# EXHIBIT A

SO ORDERED.



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NOV 16 2009

AIRD WILLIAMS & GREEN

Dated: November 09, 2009

*Charles G. Case, II*

CHARLES G. CASE, II  
U.S. Bankruptcy Judge

Russell Brown  
CHAPTER 13 TRUSTEE  
Suite 800  
3838 North Central Avenue  
Phoenix, Arizona 85012-1965  
602.277.8996  
Fax 602.253.8346

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF ARIZONA

In re

KENNETH W. LUTTRELL,

and

DIANNA E. LUTTRELL,

Debtors.

In Proceedings Under Chapter 13

Case No. 2-08-BK-08390 CGC

**ORDER DISMISSING CASE**

The Trustee having notified the Court that the Debtor has failed to comply with the Trustee's Recommendation dated April 2, 2009, as required by Local Rule 2084-10(b), the Court finds cause for dismissing the case pursuant to 11 U.S.C. § 1307(c)(1). The Debtors have failed to provide the Trustee with:

Items #1 through #9 and submit a Stipulated Order Confirming no later than May 1, 2009. Debtor's are currently \$327.37 in default.

**NOW, THEREFORE, IT IS ORDERED:**

(A) This case is dismissed and the Clerk of the Court will give notice of the dismissal to all parties in interest;

(B) A motion to reinstate the case may be granted without a hearing if the Trustee approves the proposed reinstatement order. If the Trustee does not approve of reinstatement of the case, the matter may be set for hearing upon the Debtors' motion. The Court may set a hearing on the

1 Debtors' motion to reinstate on the request of an interested party who had joined the Trustee's  
2 request for dismissal;

3 (C) Pursuant to 28 U.S.C. § 586(e)(2), the Trustee shall be paid his percentage fee from all  
4 payments received from the Debtors. After payment of the Trustee's percentage fee, subject to the  
5 provisions herein, the Trustee will retain the Debtors' funds pending Court approval of the payment  
6 of administrative expenses of the Debtors' attorney. If the Debtors' Chapter 13 Plan contained an  
7 Application for the Payment of Administrative Expenses to the Debtors' attorney and no party in  
8 interest filed an objection to the Application, then the Debtors' attorney may lodge an Order  
9 approving the Application within ten days after the Court enters this Dismissal Order. Alternatively,  
10 the Debtors' attorney has ten days after the Court enters this Dismissal Order to file and notice out  
11 a separate fee application. The Trustee is to pay from the funds on hand any adequate protection  
12 payments previously ordered by the Court. If there is an insufficient amount of funds on hand to pay  
13 all allowed administrative expenses and adequate protection payments, then the Trustee shall pay  
14 the administrative expenses and adequate protection payment amounts pro rata. Any remaining  
15 funds will be returned to the Debtors. If the Debtor's attorney fails to timely lodge such Order or  
16 file a fee application, the Trustee may pay out the funds according to this Order; and

17 (D) If the Court has entered a payroll deduction order on one or both of the Debtors' wages,  
18 then the Court vacates that order.

19 \_\_\_\_\_  
20 ORDER SIGNED AND DATED ABOVE  
21 \_\_\_\_\_

21 A copy of the proposed Order Dismissing Case  
22 was mailed by the Chapter 13 Trustee  
23 on or before the date signed below to:

24 Kenneth W. Luttrell  
25 Dianna E. Luttrell  
35798 Highway 60  
Vernon, Arizona 85940

26 Debtors  
27  
28

*In re Kenneth W. Luttrell and Dianna E. Luttrell  
Case No. 2-08-BK-08390 CGC  
Order Dismissing Case*

1 Mark D. Wesbrooks  
2 The Wesbrooks Law Firm, P.L.L.  
3 15396 N. 83<sup>rd</sup> Ave., Ste. C-100  
4 Peoria, Arizona 85381

5 Attorney for Debtors

6 **Vangie Barnard**

Digitally signed by Vangie Barnard  
DN: cn=Vangie Barnard, c=US, o=Russell Brown,  
ou=Trustee, email=vbarnard@ch13bk.com  
Date: 2009.10.26 09:39:04 -07'00'

7 vbarnard@ch13bk.com

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*In re Kenneth W. Luttrell and Dianna E. Luttrell*  
*Case No. 2-08-BK-08390 CGC*  
*Order Dismissing Case*

# **EXHIBIT B**

2009 DEC 15 AM 11:39

SUE HALL, CLERK  
APACHE COUNTY SUPERIOR COURT

BAIRD, WILLIAMS & GREER, L.L.P.  
6225 NORTH 24<sup>TH</sup> STREET, SUITE 125  
PHOENIX, ARIZONA 85016  
TELEPHONE (602) 256-9400  
FAX (602) 271-9308

Michael C. Blair (018994)

Attorneys for plaintiffs

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF APACHE

Kenneth Luttrell and Diana Luttrell, husband  
and wife; d/b/a Clearview Estates,

Plaintiffs,

vs.

Lord Arizona Water Systems, Inc., an Arizona  
corporation; Thomas V. Lord and Margaret  
Lord, husband and wife,

Defendants.

Case No. CV2006-110

**Notice of Dismissal of Bankruptcy Case  
and**

**Request for Pretrial Conference**

(Assigned to the Honorable Kay H. Wilkins)

On July 9, 2008, plaintiffs filed for chapter 13 bankruptcy protection with the United States Bankruptcy Court for the District of Arizona. On July 11, 2008, plaintiffs notified this court of the bankruptcy filing. At the time of the bankruptcy filing, trial was scheduled to begin on September 11, 2008. That trial was subsequently vacated.

By minute entry dated November 19, 2008, the court placed a hold on this case. The court stated: "at anytime either party is ready to proceed, and the bankruptcy is resolved, any sort of pleading may be filed and a hearing will be set."

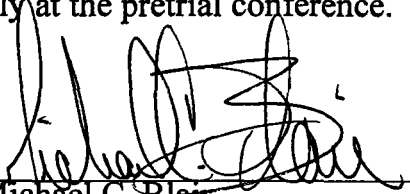
Almost one full year later, on November 9, 2009, plaintiffs' bankruptcy case was dismissed without a confirmed plan and without a discharge. A copy of the notice of dismissal from the bankruptcy court is attached hereto as exhibit A.



1 Because of the dismissal of plaintiffs' bankruptcy case, the action pending before this court  
2 needs to be restarted. Plaintiffs respectfully request this court to set a pretrial conference pursuant  
3 to Rule 16(a) Ariz.R.Civ.P. Discovery has concluded, so there is no need for a discovery  
4 schedule. However, a new trial date needs to be set.

5 Wherefore, plaintiffs respectfully requests this court to take notice of the dismissal of their  
6 bankruptcy case and to set a pretrial conference to set a new trial date. Plaintiffs also request this  
7 court to allow their counsel to appear telephonically at the pretrial conference.

8 Dated this 14<sup>th</sup> day of December 2009.

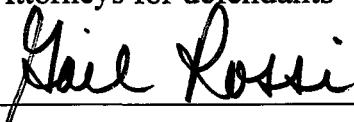
  
Michael C. Blair  
Baird, Williams & Greer, L.L.P.  
6225 North 24<sup>th</sup> Street, Suite 125  
Phoenix, Arizona 85016  
Attorney for plaintiff

13 Original mailed to be filed  
14 this 14<sup>th</sup> day of December 2009,  
with:

15 Clerk of the Court  
16 Apache County Superior Court  
17 P.O. Box 365  
18 St. Johns, Arizona 85936

19 Copy mailed this same date to:

20 Douglas E. Brown, Esq.  
21 Morgan Brown  
22 *Brown & Brown Law Offices, P.C.*  
23 26 South Main  
24 P.O. Box 489  
25 Eagar, Arizona 85925  
Attorneys for defendants



# **EXHIBIT A**

SO ORDERED.



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AIRD WILLIAMS & GREER

Dated: November 09, 2009

*Charles G. Case, Jr.*  
CHARLES G. CASE, JR.  
U.S. Bankruptcy Judge

Russell Brown  
CHAPTER 13 TRUSTEE  
Suite 800  
3838 North Central Avenue  
Phoenix, Arizona 85012-1965  
602.277.8996  
Fax 602.253.8346

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF ARIZONA

In re  
KENNETH W. LUTTRELL,  
and  
DIANNA E. LUTTRELL,

Debtors.

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**ORDER DISMISSING CASE**

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22 was mailed by the Chapter 13 Trustee  
23 on or before the date signed below to:

23 Kenneth W. Luttrell  
24 Dianna E. Luttrell  
25 35798 Highway 60  
26 Vernon, Arizona 85940

26 Debtors  
27  
28

*In re Kenneth W. Luttrell and Dianna E. Luttrell*  
*Case No. 2-08-BK-08390 CGC*  
*Order Dismissing Case*

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Mark D. Wesbrooks  
The Wesbrooks Law Firm, P.L.L.  
15396 N. 83<sup>rd</sup> Ave., Ste. C-100  
Peoria, Arizona 85381

Attorney for Debtors

**Vangie Barnard**

Digitally signed by Vangie Barnard  
DN: cn=Vangie Barnard, c=US, o=Russell Brown,  
ou=Trustee, email=vbarnard@ch13bk.com  
Date: 2009.10.26 09:39:04 -07'00'

vbarnard@ch13bk.com

*In re Kenneth W. Luttrell and Dianna E. Luttrell  
Case No. 2-08-BK-08390 CGC  
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